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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10 Plaintiff,
11 v.
12 Samuel James Adams, Jr.,
13 Defendant.
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No. CR-23-01269-001-PHX-DWL
ORDER

15 Pending before the Court is a motion to dismiss the indictment filed by Defendant
16 Samuel James Adams, Jr. (“Defendant”). (Doc. 43.) The motion is fully briefed and the
17 Court concludes that oral argument is unnecessary. *See* LRCiv 7.2(f); LRCrim 12.1(a),
18 47.1. For the reasons that follow, the motion is denied.

19 **RELEVANT BACKGROUND**

20 On September 5, 2023, the grand jury returned an indictment charging Defendant
21 with the crime of being a felon in possession of a firearm and/or ammunition, in violation
22 of 18 U.S.C. § 922(g)(1). (Doc. 1.) The indictment alleges that on March 31, 2023, after
23 having been convicted of a crime punishable by imprisonment for a term exceeding one
24 year, Defendant knowingly possessed an SCCY model CPX-2 9mm Luger pistol, a black
25 extended 9mm ammunition magazine, and 12 rounds of 9mm ammunition. (*Id.*)

26 On December 9, 2024, Defendant filed the pending motion to dismiss. (Doc. 43.)

27 On December 20, 2024, the government filed a response. (Doc. 46.)

28 On January 10, 2025, Defendant filed a reply. (Doc. 50.)

DISCUSSION

I. The Parties' Arguments

Defendant moves “to dismiss the indictment against him because the charged statute, 18 U.S.C. § 922(g)(1), is facially unconstitutional under the Second Amendment and, alternatively, as applied to [him]. While *United States v. Vongxay*, 594 F.3d 1111 (9th Cir. 2010), might have previously foreclosed [this] challenge, the *Vongxay* decision has been undermined to the point of abrogation and has been effectively overruled by the Supreme Court’s intervening, watershed decision in *New York Rifle & Pistol Assoc., Inc., v. Bruen*, 597 U.S. 1 (2022), as clarified in *United States v. Rahimi*, 602 U.S. 680 (2024).” (Doc. 43 at 1.) As for the as-applied challenge, Defendant acknowledges that he has “one criminal conviction that qualifies as a predicate felony conviction under Section 922(g)(1),” which is “his Arizona state conviction for unlawful flight from a law enforcement vehicle, a class 5 felony with a prior, for which he was sentenced on October 21, 2020, to the presumptive term of 2.25 years in state prison,” but argues that “[e]ven if there are constitutional applications of Section 922(g)(1), historical tradition does not support forever disarming an individual . . . whose predicate felony conviction . . . is nonviolent and whose sentence for that conviction is completed.” (*Id.* at 3.)

The government responds that “Defendant’s Motion should be denied because: (1) binding Ninth Circuit precedent has already found § 922(g)(1) constitutional as to both violent and non-violent felons; (2) Defendant is not part of ‘the people’ protected under the Second Amendment; and (3) even if the Defendant is a part of ‘the people,’ disarming non-law-abiding felons falls within this Nation’s long-standing history and tradition of firearm regulation.” (Doc. 46 at 3.) The government also notes that, in *United States v. Jessup*, 2024 WL 4108007 (D. Ariz. 2024), this Court recently rejected a similar constitutional challenge to § 922(g)(1). (*Id.* at 7.)

In reply, Defendant “urges the Court to reconsider its rationale in *Jessup* and to find that *Vongxay* was effectively overruled by the Supreme Court’s intervening Second Amendment decisions in [*Bruen*] and [*Rahimi*].” (Doc. 50 at 1.)

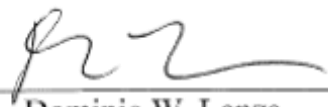
1 II. Analysis

2 The arguments presented here are essentially identical to the arguments presented
3 in *Jessup*. There, as here, a defendant charged with a felon-in-possession offense argued
4 that § 922(g)(1) is unconstitutional because “*Vongxay*’s reasoning is irreconcilable with
5 *Bruen*.” *Jessup*, 2024 WL 4108007 at *2. In a September 2024 order, the Court rejected
6 that argument, concluding that “under Ninth Circuit law as it stands today, the Second
7 Amendment does not preclude the application of 18 U.S.C. § 922(g)(1) to any defendant
8 with a prior felony conviction, regardless of the nature of that conviction.” *Id.* No
9 intervening decision by the Ninth Circuit or Supreme Court has called that conclusion into
10 question, so the Court sees no basis for reconsidering it here. “Although the *en banc* panel
11 in *Duarte* may, in the coming months, decide to reconsider *Vongxay*, this Court is duty-
12 bound to follow *Vongxay* unless and until it is overruled.” *Id.*

13 Accordingly,

14 **IT IS ORDERED** that Defendant’s motion to dismiss the indictment (Doc. 43) is
15 **denied**.

16 Dated this 14th day of January, 2025.

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21 Dominic W. Lanza
22 United States District Judge
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